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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,486	03/25/2004	Takanori Kanto	26A-017	5761

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EXAMINER

ILAN, RUTH

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/808,486		KANTO ET AL.	
	Examiner		Art Unit	
	Ruth Ilan		3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/25/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of gas passages as claimed in 6 and 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that the drawings show at the most one gas passage.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, lines 10-12 and claim 11, lines 10-12 both recite "a portion of the airbag corresponding to an elbow portion of an occupant on the seat". This language is indefinite because it references the location of a particular part of the airbag based on a variable object. The person on the seat can be many sizes, and the location of the elbow also will depend on the size of the occupant and the sitting attitude of the occupant, and the position of the occupants hands and arms. See MPEP 2173.05(b). A claim may be rendered indefinite by reference to an object that is variable. For example, the Board has held that a limitation in a claim to a bicycle that recited "said front and rear wheels so spaced as to give a wheelbase that is between 58 percent and 75 percent of the height of the rider that the bicycle was designed for" was indefinite because the relationship of parts was not based on any known standard for sizing a bicycle to a rider, but on a rider of unspecified build. *Ex parte Brummer*, 12 USPQ2d 1653 (Bd. Pat. App. & Inter. 1989). Additionally, regarding claims 2 and 4, it is not understood what is intended by the phrase "among the lumber region, the chest, the shoulders, and the head of the occupant".

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4, 6, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 3013763 A (see also attached machine language translation.) JP 3013763 teaches a side airbag (10) used in a vehicle and including an inflator and also including a limited thickness portion (15, 16, see Figure 3) which limits the thickness of the airbag in the elbow portion. Please note that it is the Examiner's position that given the broad definition of elbow portion presented in the specification (that is one that includes upper fore arm and lower upper arm, as well as elbow) and given the variable size of vehicle occupants and the general location of 15 and 16, it is reasonable to include the areas taught by the reference as elbow portion. As seen in Figure 3, the airbag includes an inflation portion that surrounds the limited thickness portion and is inflated with gas from the inflator. Regarding claims 4 and 15, the air bag is provided in a seat and deploys upward. Regarding claim 6, as best understood, and as based on the disclosure, the limited thickness portion is one of two limited thickness portions, and

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includes a gas passage between. Regarding claim 11, the air bag has a narrow portion (front vertical passage of the air bag.)

7. Claims 1, 2, 6, 8-10, 11, 12, 13, 17, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Sato et al. (US 2003/0168836.)

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Sato et al. teaches (see for instance Figure 5 and 6) a side airbag (16) used in a vehicle and including an inflator (15) and also including a limited thickness portion (17a) which limits the thickness of the airbag in the elbow portion. Please note that it is the Examiner's position that given the broad definition of elbow portion presented in the specification (that is one that includes upper fore arm and lower upper arm, as well as elbow) and given the variable size of vehicle occupants and the general location of 15 and 16, it is reasonable to include the areas taught by the reference as elbow portion. If for instance the occupant has his arm down at his side, then the limited thickness portion would clearly protect the elbow portion. As seen in Figure 5, the airbag includes an inflation portion that surrounds the limited thickness portion and is inflated with gas from the inflator. Regarding claims 2 and 12, the air bag is provided in a seat backrest

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and deploys forward. Regarding claims 8-10, and 19 the limited thickness portion is above the mainstream of the inflator and the gas is injected horizontally. Regarding claim 11, the air bag has a narrow portion (front vertical passage of the air bag.) Regarding claim 13, the embodiment shown by Sato et al. in Figure 18 fairly meets the limitations. Regarding claim 6 and 17, the embodiment shown in Figure 23 shows a plurality of limited thickness portions with a gas passage in between.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 3013763 A in view of Sakamoto et al. (JP 11-180244 A.) JP 3013763 teaches a

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sewn connection but fails to disclose a reinforcing fabric sheet. Sakamoto et al. teaches including a reinforcing sheet (19) between the sewn together parts of the limited thickness portions of a side air bag. This reinforcing fabric sheet adds strength to the base cloth. It would have been obvious to one having ordinary skill in the art at the time of the invention to include a reinforcing cloth, as taught by Sakamoto et al. with the side air bag of JP 3013763 in order to add strength to the base cloth.

11. Claims 5, 7, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 3013763 A in view of Wipasuramonton (US 5,566,977.) JP 3013763A is discussed above, and fails to teach a circular limited thickness portion. Wipasuramonton teaches a circular shaped limited thickness portion (100) used on a side air bag. It would have been obvious to one having ordinary skill in the art to shape the limited thickness portions of JP 3013763 A in a circular shape, in view of the teaching of Wipasuramonton, because circular seams are more able to absorb stress. Additionally, it has been held that a change in shape is well within the level of ordinary skill in the art. Regarding claims 5 and 16, Wipasuramonton teaches a reinforcing fabric sheet. This reinforcing fabric sheet adds strength to the base cloth. It would have been obvious to one having ordinary skill in the art at the time of the invention to include a reinforcing cloth, as taught by Wipasuramonton with the side air bag of JP 3013763 in order to add strength to the base cloth.

Allowable Subject Matter

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12. Claims 3 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Richter et al., Vendely et al., Eyrainer, Herold, and Kai et al. teach side air bags of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

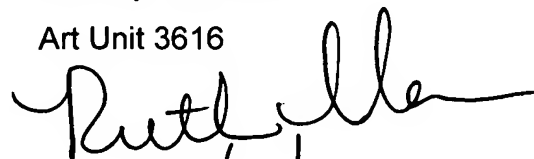
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ruth Ilan

Primary Examiner

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7/11/06